

## Assembly Bill No. 1763

### CHAPTER 845

An act to amend Section 60643 of the Education Code, relating to pupil testing.

[Approved by Governor September 24, 1998. Filed  
with Secretary of State September 25, 1998.]

#### LEGISLATIVE COUNSEL'S DIGEST

AB 1763, Mazzoni. Statewide achievement test.

Existing law requires school districts, charter schools, and county offices of education to administer to each of its pupils in grades 2 to 11, inclusive, a statewide achievement test.

Existing law requires the test publisher whose achievement test is adopted for statewide use to provide aggregate scores to teachers, administrators, governing boards of school districts, county boards of education, and the State Department of Education in certain forms and formats and to provide disaggregated scores, based on limited-English-proficient status.

This bill would also require the publisher to provide disaggregated scores based on non-limited-English-proficient status, as defined, pupil gender, and based on whether pupils are economically disadvantaged or not. These disaggregated scores would be required to be provided in the same form and formats as aggregate scores provided to teachers, administrators, governing boards of school districts, county boards of education, and the State Department of Education.

The bill would incorporate additional changes in Section 60643 of the Education Code, proposed by both this bill and Senate Bill No. 1564, to be operative only if SB 1564 and this bill are both chaptered and become effective on or before January 1, 1999, and this bill is chaptered last.

*The people of the State of California do enact as follows:*

SECTION 1. Section 60643 of the Education Code is amended to read:

60643. (a) To be eligible for consideration under Section 60642 by the State Board of Education, test publishers shall agree in writing to meet the following requirements, if selected:

(1) Post a performance bond in an amount to be determined by the State Board of Education.

(2) Enter into a standard agreement with all school districts in the state that includes a payment schedule and conditions prescribed by the State Board of Education.

(3) Align the achievement test to the academically rigorous content and performance standards adopted by the State Board of Education.

(4) Comply with subdivisions (c) and (d) of Section 60645.

(5) Provide individual pupil scores to parents or guardians, teachers, and school administrators.

(6) Provide aggregate scores to teachers, administrators, governing boards of school districts, county boards of education, and the State Department of Education in all of the following forms and formats:

(A) Grade level.

(B) School level.

(C) District level.

(D) Countywide.

(E) Statewide.

(F) Comparison of statewide scores relative to other states.

(7) Provide disaggregated scores, based on limited-English-proficient status and non-limited-English-proficient status. For purposes of this section, pupils with “non-limited-English-proficient status” shall include the total of those pupils who are English-only pupils, fluent-English proficient pupils, and redesignated fluent-English proficient pupils. These scores shall be provided to teachers, administrators, governing boards of school districts, county boards of education, and the State Department of Education in the same form and formats listed in paragraph (6).

(8) Provide disaggregated scores by pupil gender and provide disaggregated scores based on whether pupils are economically disadvantaged or not. These disaggregated scores shall be in the same form and formats listed in paragraph (6). In any one year, the disaggregation shall entail information already being collected by school districts, county offices of education, or charter schools.

(9) Provide all information listed in paragraphs (6), (7), and (8) to the State Board of Education and to the recipients listed in paragraph (6), in hard copy and in an electronic medium compatible for access through the Internet.

(b) It is the intent of the Legislature that the publisher work with the Superintendent of Public Instruction and the State Board of Education in developing a methodology to disaggregate statewide scores as required in paragraphs (7) and (8) of subdivision (a), and in determining which variable indicated on the STAR testing document shall serve as a proxy for “economically disadvantaged” status pursuant to paragraph (8).



(c) Access to any information about individual pupils or their families shall be granted to the publisher only for purposes of correctly associating test results with the pupils who produced those results or for reporting and disaggregating test results as required by this section. School districts are prohibited from excluding a pupil from the test if a parent or parents decline to disclose income. Nothing in this chapter shall be construed to abridge or deny rights to confidentiality contained in the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Sec. 1232g) or other applicable provisions of state and federal law that protect the confidentiality of information collected by educational institutions.

(d) Notwithstanding any other provision of law, the publisher of the achievement test designated pursuant to Section 60642 shall comply with all of the conditions and requirements enumerated in subdivision (a) to the satisfaction of the State Board of Education.

(e) The State Department of Education is hereby authorized to develop a standard agreement, subject to the approval of the State Board of Education, that all school districts shall be required to use. The agreement shall contain provisions for withholding payments for test development, publication, administration, scoring, test security, data aggregation, analysis, reporting, and electronic transmission. The State Department of Education shall specify in the standard agreement that final payments by school districts or any agent of the State of California shall be withheld until the Superintendent of Public Instruction notifies all school districts that the test administration is completed for the academic year and the State Board of Education has received complete statewide data to its satisfaction reported in the manner prescribed by this section. The Superintendent of Public Instruction shall notify school districts as required by this subdivision within seven work days after receiving instruction from the State Board of Education.

(f) The State Board of Education shall consider the performance of publishers no later than July 31 following the test administration for purposes of making appropriate determinations pursuant to the standard agreement authorized pursuant to this section. Any failure of the test publisher to meet the terms of the standard agreement or other requirements of this section that is caused by a school district's failure to fulfill its obligations shall not be deemed cause for a determination adverse to the test publisher under this subdivision.

SEC. 1.5. Section 60643 of the Education Code, as amended by Section 21 of Senate Bill 1564, is amended to read:

60643. (a) To be eligible for consideration under Section 60642 by the State Board of Education, test publishers shall agree in writing each year to meet the following requirements, if selected:

(1) Post a performance bond in an amount to be determined by the State Board of Education.



(2) Enter into a standard agreement with all school districts in the state that includes a payment schedule and conditions prescribed by the State Board of Education.

(3) Align the achievement test to the academically rigorous content and performance standards adopted by the State Board of Education.

(4) Comply with subdivisions (c) and (d) of Section 60645.

(5) Provide individual pupil scores to parents or guardians, teachers, and school administrators.

(6) Provide aggregate scores to teachers, administrators, governing boards of school districts, county boards of education, and the State Department of Education in all of the following forms and formats:

(A) Grade level.

(B) School level.

(C) District level.

(D) Countywide.

(E) Statewide.

(F) Comparison of statewide scores relative to other states.

(7) Provide disaggregated scores, based on limited-English-proficient status and non-limited-English-proficient status. For purposes of this section, pupils with “non-limited-English-proficient status” shall include the total of those pupils who are English-only pupils, fluent-English proficient pupils, and redesignated fluent-English proficient pupils. These scores shall be provided to teachers, administrators, governing boards of school districts, county boards of education, and the State Department of Education in the same form and formats listed in paragraph (6).

(8) Provide disaggregated scores by pupil gender and provide disaggregated scores based on whether pupils are economically disadvantaged or not. These disaggregated scores shall be in the same form and formats as listed in paragraph (6). In any one year, the disaggregation shall entail information already being collected by school districts, county offices of education, or charter schools.

(9) Provide information listed in paragraphs (6), (7), and (8) to the State Board of Education and to the recipients listed in paragraph (6), in hard copy and in an electronic medium compatible for access through the Internet.

(b) It is the intent of the Legislature that the publisher work with the Superintendent of Public Instruction and the State Board of Education in developing a methodology to disaggregate statewide scores as required in paragraphs (7) and (8) of subdivision (a), and in determining which variable indicated on the STAR testing document shall serve as a proxy for “economically disadvantaged” status pursuant to paragraph (8).



(c) Access to any information about individual pupils or their families shall be granted to the publisher only for purposes of correctly associating test results with the pupils who produced those results or for reporting and disaggregating test results as required by this section. School districts are prohibited from excluding a pupil from the test if a parent or parents decline to disclose income. Nothing in this chapter shall be construed to abridge or deny rights to confidentiality contained in the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Sec. 1232g) or other applicable provisions of state and federal law that protect the confidentiality of information collected by educational institutions.

(d) Notwithstanding any other provision of law, the publisher of the achievement test designated pursuant to Section 60642 shall comply with all of the conditions and requirements enumerated in subdivision (a) to the satisfaction of the State Board of Education.

(e) (1) The State Department of Education is hereby authorized to develop a standard agreement, subject to the approval of the State Board of Education, that all school districts and the test publisher shall be required to use. The agreement shall contain provisions for withholding full or partial payments for individual components of test administration, including, but not limited to, test development, publication, administration, scoring, test security, data aggregation, analysis, reporting, or electronic transmission. The standard agreement shall specify the exact reports and data files that are to be provided to the district by the publisher, and the number of copies of each report or file to be provided. The State Department of Education shall also specify in the standard agreement that all reports and files must be certified by the district as complete and accurate before final payment to the publisher from the district. The State Department of Education shall specify in the standard agreement that final payments or portions thereof by school districts or any agent of the State of California shall be withheld until the Superintendent of Public Instruction notifies all school districts that the test administration is completed for the academic year and the State Board of Education has made a determination pursuant to paragraph (2) or (3). The Superintendent of Public Instruction shall notify school districts as required by this subdivision within seven work days after receiving instruction from the State Board of Education.

(2) If satisfied that the publisher has met the requirements of subdivision (a), and that the State Department of Education and the State Board of Education have received complete statewide data, to the satisfaction of the board, reported in the manner prescribed by this section, the State Board of Education shall determine that all school districts may make final payments to the publisher.

(3) If the State Board of Education is not satisfied that the publisher has met all of the requirements of subdivision (a) or any



of the individual components of test administration, the board may authorize partial payment. The State Board of Education may adopt regulations establishing a process for partial payments to the test publisher by school districts.

(f) The State Board of Education shall consider the performance of publishers no later than July 31 following the test administration for purposes of making appropriate determinations pursuant to the standard agreement authorized pursuant to this section. Any failure of the test publisher to meet the terms of the standard agreement or other requirements of this section that is caused by a school district's failure to fulfill its obligations shall not be deemed cause for a determination adverse to the test publisher under this subdivision.

SEC. 2. Section 1.5 of this bill incorporates amendments to Section 60643 of the Education Code proposed by both this bill and Senate Bill No. 1564. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1999, (2) each bill amends Section 60643 of the Education Code, and (3) this bill is enacted after SB 1564, in which case Section 60643 of the Education Code, as amended by SB 1564, shall remain operative only until the operative date of this bill, at which time Section 1.5 of this bill shall become operative, and Section 1 of this shall not become operative.

